ORIGIN/ACTION

L-6 FE-6

M/R	REP	AF
1		
RA	EUR	FE
		4
NEA	CU	INR
		5
E	A	to PBO
	1	
L	XXXX SCA	AID
	1	PER
		1
AGR	COM	FRB
INT	XXX SCS	TAR
	1	
TR	XMB	AIR
ARMY	CIA	NAVY
OSD	USIA	NSA
	U/PR	
	1	

Rm/R-E-1

DEPARTMENT OF STATE

AIRGRAM

17

611.94421/11-1562

FOR RM USE ONLY

A-672 NO. | LIMITED OFFICIAL USE | AIR POUCH HANDLING INDICATOR

TO : DEPARTMENT OF STATE

Depts H-381 of Dec 6 w/ reply. File L/B

Action Assigned to

Action Taken January 23 1963

AUG 16 1963 CLASSIFICATION/DISTRIBUTION

USIA REPRODUCTION PROHIBITED

NOV 23 1962

FROM : Amembassy TOKYO DATE : November 15, 1962

SUBJECT : Consular Convention with Japan

REF : Department's A-197, September 25, 1962 and A-208, September 27, 1962

T-63

The Embassy has completed the fourth series of negotiations with the Ministry of Foreign Affairs on the pending United States-Japan Consular Convention. Meetings were held on October 18 and November 2, 1962 and Draft Memoranda of Conversation covering these meetings are transmitted herewith as Enclosure No. 1. The substantive content of these memoranda is submitted in a topical format in Enclosure No. 2.

Working level negotiations have been successfully concluded and all pending issues have been settled. The Japanese side agreed to withdraw its proposals with respect to Articles 2(8), 3(1), 5(2) and 6(1); it agreed to the United States proposals for Articles 13(3)(d) and 17(1)(e)(ii); and it made a major concession with respect to the second paragraph of the Protocol by agreeing to delete the entire paragraph. See the Draft Memoranda of Conversation of the 18th meeting which provides background for the latter decision.

The Embassy negotiators discussed with the Japanese side the probable implications of the definition of the term "members of his family forming part of his household" in the last sentence of Article 11(6) (formerly Article 11(5)) as it might apply to minor children. It was also discussed within the Embassy and it was concluded that the wording for Article 11(6) is acceptable from the United States point of view.

FILED

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY LIMITED OFFICIAL USE DATE MAY 1982
RDS or XDS EXT. DATE REASON(S)
ENDORSE EXISTING MARKINGS
DECLASSIFIED RELEASABLE
RELEASE DENIED
PA or FOI EXEMPTIONS

FORM DS-323 4-62

FOR DEPT. USE ONLY In Out

Drafted by: CON:HMHolland:pgg

Contents and Classification Approved by: CCA:RJBlake

Clearances:

Work is currently underway on a final corrected version of the Convention in English which will embody all of the editing changes which have been negotiated ad referendum. It is expected that the English and Japanese versions of the Convention which represent working level agreement will be transmitted to the Department shortly.

For the Ambassador:

Ralph J. Blake
Counselor for Consular Affairs

Enclosures: att

1. Draft Memoranda of Conversation.
2. Topical Format of the Draft Memoranda.

A

DECLASSIFIED

0317228 1930

OFFICIAL USE ONLY

Formal Resumption of US/Japan Consular Convention Negotiations
18th Meeting, October 18, 1962, Foreign Ministry, 2:30 P.M.

Japanese Delegation:

Mr. Motoo Ogiso	Chief, Legal Section, Treaties Bureau
Mr. Mitsuro Donowaki	Secretary, Legal Section
Mr. Toshitake Katayama	Secretary, Protocol Section
Mr. Tatsuo Arima	Secretary, North American Section, American Affairs Bureau
Mr. Kumao Kaneko	Secretary, Legal Section

U.S. Delegation:

Mr. Ralph J. Blake	Counselor of Embassy
Mr. Harrison M. Holland	Second Secretary of Embassy

Proceedings:

US: With respect to Article 2(8) which deals with the definition of a consular officer, the US believes that honorary consuls are included in the definition of consular officers and can never be "career consular officers". It therefore considers that the suggested additional language at the end of Article 2(8) would be superfluous.

Japan: We are prepared to agree to the deletion of the additional language at the end of Article 2(8) and also to the deletion of the last sentence of Article 3(1). We believe we can explain to the Diet, if requested, that a consular officer as referred to in Article 2(8) includes an honorary consul.

US: The US view coincides with that interpretation.

With respect to Article 5(2), the Department must reluctantly oppose the Japanese proposal to achieve special protection for the consular office. Besides being open to controversy because the term "special protection" is not fully defined, and not really susceptible to advance definition in all cases,

DECLASSIFIED

DECLASSIFIED

the Federal-State system of the United States Government would vitiate its effectiveness. Thus, a municipal legal government might be unable effectively to protect the premises, while it would nevertheless undertake, to the best of its ability, the present Article 5(2) duties. Under such a provision the sending state could maintain that it would be necessary at all times to station a policeman at the consulate entrance. It would not seem appropriate to require any municipality to undertake anything approaching such a responsibility. Further, the premises might merely be leased or rented, and the lessor's interest would thereby benefit to the extent not otherwise available to him as a citizen.

Japan: As you indicated in your explanation, some difficulty might be experienced even with respect to consular officers, and thus it would appear to us that the problem of definition has already arisen.

US: We would simply not want to add to the difficulty of definition by including premises as well as officers for protection purposes.

Japan: If a consular officer were to leave the consular premises vacant, would the consular office be given special protection? For example, if in such an event an anti-Japanese demonstration were to occur would the police protect the premises?

US: It seems to us that several provisions of Article 8 of this Convention plus the laws of the receiving state and international diplomatic and consular practice would all form the basis for according the protection to the premises to which you have just referred.

Japan: Since paragraph 4 of Article 8 provides for the inviolability of consular premises against invasion by authorities of the receiving state and not by private individuals, we are not so confident as you are. However, we do not insist upon our proposal and we withdraw it.

US: With respect to Article 6(1), the Japanese proposal would seem to place a limitation upon the ability to make full and effective use of consular officers and employees. For example, a consular officer with an appointment commission from the sending state and recognition from the receiving state as a consul in one consular district might be precluded from temporarily performing consular functions in another district where a subordinate personnel vacancy may exist. It could be held that no consular officer other than one to be "in charge" could be transferred temporarily to another consular post.

DECLASSIFIED

0912ZAJ30

Japan: We will withdraw our proposal.

US: With respect to Article 8(3), the US agrees to the Japanese proposal.

With respect to Article 11(1)(a), the Japanese proposals are acceptable to the US.

In Article 13(3)(d), the US would prefer that this subparagraph read as follows: "taxes on the use of amusement facilities, the amusement tax including any hotel and restaurant tax, the spa tax, the traveling tax, taxes on electricity and gas, and the diesel oil delivery tax;".

Japan: We can tentatively agree to your proposal but must consult with officials of the Local Autonomy Ministry before final approval can be given.

US: With respect to Article 14(2), the Department approves making the definition "members of his family forming part of his household" an appropriately numbered paragraph of the Protocol.

We, however, can foresee one possible difficulty in the application of this definition to Article 11(6) (formerly Article 11(5)). The receiving state could refuse, pursuant to the proposed revised wording of the second sentence, to accord the privileges of this article to minor children of consular officers and employees if such children worked. What would your intentions be in this respect?

Japan: It would be our intention to require minor children of consular officers and employees to change their immigration status in accordance with the Immigration Control Order and the Alien Registration Law if they desired to work full-time. However, we would not require minor children of a consular officer to make this change in their residence status if they were merely engaged in temporary work. We feel that such minor children should not have the privileges of this article if they are regularly employed. We would therefore require them to request a change in their residence status in accordance with Japanese law.

US: Would you be agreeable to reverting to the original language of the second sentence which dealt solely with spouses of consular officers and employees?

DECLASSIFIED

Japan: We would prefer not to revert to the previous language but to have the revised language of Article 11(6) in the Convention.

US: We will give you our final position on this question at a later time.

In Article 17(1)(e), the US agrees to the Japanese proposal to substitute the term "depositions" for "evidence". The US would further propose that in order to clarify the meaning of several sentences in the related Agreed Official Minute (now Protocol 6), the following amendment to Article 17(1)(e)(ii) be adopted in lieu of the entire former AOM: "take depositions on behalf of the courts or other judicial tribunals or authorities of the sending state, voluntarily given, or".

Japan: We can accept your proposal.

US: With respect to Article 17(1)(g), the Department believes that it is unnecessary to provide in the Consular Convention for consular officers to issue certificates of origin and other necessary documents for use of the sending state. This is one of the inherent powers exercised by a consul which does not appear to affect the receiving state--hence it is not necessary to establish the power in a convention.

Japan: Japan considers it desirable to have this article in the Convention for the sake of clarification and such an article has already been included in the draft UK/Japan Consular Convention now being negotiated. We would prefer that it be retained.

US: We are authorized to inform you that in view of your firm feelings on the issue, we will accept your proposal.

With respect to paragraph 2 of the Protocol, the US agrees to the Japanese wording for this paragraph. However, with respect to the exchange of letters, the Department did not contemplate as formal a negotiating record as you are proposing. In fact, the Japanese proposal goes beyond the concept of a negotiating record, being more in the nature of a formal understanding that might be involved in the ratification processes of the two governments. The US considers it unnecessary to give such formality to the confirmation of a right of access to a consul that is clearly inherent in the nature of the several transactions for which right of access is desired and conceded. Inasmuch as a negotiating record is being maintained in the form of minutes covering each negotiating session, the incorporation therein of the substance of the proposed exchange of letters would appear to meet the problem.

DECLASSIFIED

Japan: We appreciate the fact that the United States has agreed to the wording proposed by the Japanese side for the second paragraph of the Protocol. However, we have found it necessary to ask you to consider additional proposals for this paragraph and the exchange of letters. With respect to the Protocol itself, we would propose that the words "and ordinary residence" be added after "family registration" in the first instance and that "or ordinary residence" be added after "family registration" in the second instance. Paragraph 2 would then read: "Notwithstanding the provisions of paragraph (3) of Article 2, an individual whose place of family registration and ordinary residence is in the Ryukyu Islands shall, for the purpose of this Convention and for so long as his place of family registration or ordinary residence has not been transferred to Japanese jurisdiction, be considered a national of Japan when in Japan and a person under the protection of the United States when in the United States of America, its territories or possessions." Several government offices concerned have stated that they desire to have the benefits of this paragraph apply to Okinawans who reside in Japan but whose place of family registration continues to be in Okinawa. The additional wording would accomplish this.

US: It would appear from this newly proposed wording that there would now be one or the other of two tests that would be governing in determining whether an Okinawan would be considered a Japanese national when in the United States -the location of his place of family registration or the place where he resides.

Japan: In most cases the place of residence would be controlling. For example, if under our proposal, an Okinawan lived in Japan but his place of family registration were in Okinawa, he would be considered a national of Japan while in the United States. If he were residing in Okinawa, however, and his place of family registration were in Fukuoka, but such registration existed also in Okinawa, he would not be considered a Japanese national while in the United States.

At this point we would like to draw your attention to the fact that Fukuoka is the only place in Japan where Okinawans are permitted to have their family register recorded in Japan without losing their status of Okinawans. Those Okinawans who wish to select a place in Japan other than Fukuoka as their place of family registration will have to delete their family registration from the registry record in Okinawa first. As the result of such transfer of family registration from Okinawa to Japan they will lose the status of Okinawans.

DECLASSIFIED

At present, about one hundred and thirty thousand Okinawans have their family registration in Fukuoka, and some of them actually reside in Japan. Our proposal is intended to treat those Okinawans who reside in Japan as ordinary Japanese.

US: When an Okinawan is in the United States, how can it be determined, as a practical matter, that he is a resident of Japan?

Japan: Prima facie evidence would be his Japanese passport.

US: If (1) his place of family registration and ordinary residence were both in Okinawa, (2) he were issued a Certificate of Identity while in Okinawa, and (3) he came to Japan and he was there issued a Japanese passport, such passport could not be prima facie evidence that he is a resident of Japan. He would still be considered under the protection of the United States while in the United States or its territories or possessions.

Japan: In that event he would probably have to produce other evidence if US officials questioned his status. In any event, these matters could and should be handled on a case by case basis when they arise.

US: It would appear to us that your proposal would in effect permit considerably more Okinawans to be considered Japanese nationals when in the United States than was envisaged in your earlier proposal which was accepted by the United States. This may be considered a substantial departure from the earlier American proposal to which both sides had previously agreed.

Japan: Secondly, we have been instructed to make a further proposal in connection with the exchange of letters which we had earlier proposed with respect to paragraph 2 of the Protocol and which had been rejected by the United States. We would be agreeable to having the substance of this exchange of letters appear in the official minutes of the Convention if the following wording were used:

> "U.S.: Upon instruction from the Department, we are now in a position to inform you that the proposal of the Japanese side to modify the wording of the Protocol 2 is acceptable to the United States.

DECLASSIFIED

0016284330

"Japan: Before finally accepting the Protocol 2 proposed by the U.S. side with the amendment as suggested by the Japanese side, the Japanese side wishes to confirm the following understanding.

"It is the understanding of the Japanese side that, as a matter of practice, those Ryukyuans in the United States whose place of family registration (and ordinary residence) are in the Ryukyus have always been permitted free access to Japanese consuls in the U.S. for consultations. Also, Japanese consuls in the U.S. have never been denied the right to perform consular services to such Ryukyuans when such services related to passports or to the execution of documents intended to have legal effect in Japan or to the relief and benefits receivable from Japan. No change in this present practice is intended by virtue of the provisions of the Protocol 2.

"Is this also the understanding of the U.S. side?

"U.S.: Yes, that is also the understanding of the U.S. side."

We were instructed to delete reference to the special services US consuls in Japan could accord Ryukyuans as it was the understanding of the Japanese side that US consuls were not actually according such services to Ryukyuans. If the previous wording in the exchange of letters were allowed to stand, it would mean that US consuls could perform such services as related to passports, et cetera for Ryukyuans in Japan. It is our intention merely to confirm the present practice.

US: We wish to point out first of all that the Department did not reject the proposal for an exchange of letters nor did it object to the general content of these letters. It merely stated that it would prefer that the substance of the exchange appear in the official minutes rather than in the form of an exchange of letters because of the probable introduction of the exchange of letters into the ratification process.

Your new proposal appears to be a substantial departure from the content of the exchange of letters that you formerly had proposed. Instructions which have been received by the Embassy make it clear that the United States would desire that the principle of reciprocity be recognized in the Convention with respect to the second paragraph of the Protocol whether or not US consuls

DECLASSIFIED

0317201990

in Japan would in fact perform consular services for Ryukyuans. Your present proposal clearly denies this principle of reciprocity and thus, in our view, departs substantially from your previous proposal. From the instructions received from the Department which state that the negotiating record would be expected to show that Japan's acceptance of the proposal for paragraph 2 of the Protocol would not deny to US consular officers in Japan the right to perform comparable services for Ryukyuans, it would appear that there would be serious doubts concerning the acceptability of your proposal by the United States.

Would you be willing to revert to your previous proposal which was not, we repeat, rejected by the United States, and have a formal exchange of letters covering the second paragraph of the Protocol?

Japan: We have been instructed to introduce this new proposal in lieu of the exchange of letters.

US: In view of the absence of the recognition of the principle of reciprocity in your new proposal, we can only repeat that it does not appear that your proposal would be acceptable to the United States in the light of our present instructions.

Japan: We will study further your position on paragraph 2 of the Protocol and the exchange of letters and give you our reply at the next meeting.

US: With respect to paragraph 4 of the Protocol, the US agrees to the Japanese proposal.

DECLASSIFIED

UNCLASSIFIED

Formal Resumption of US/Japan Consular Convention Negotiations
19th Meeting, November 2, 1962, Foreign Ministry, 3:00 P.M.

Japanese Delegation:

Mr. Motoo Ogiso	Chief, Legal Section, Treaties Bureau
Mr. Mitsuro Donowaki	Secretary, Legal Section
Mr. Tatsuo Arima	Secretary, North American Section, American Affairs Bureau
Mr. Kumao Kaneko	Secretary, Legal Section

American Delegation:

Mr. Ralph J. Blake	Counselor of Embassy
Mr. Harrison M. Holland	Second Secretary of Embassy

Proceedings:

Japan: We have been instructed to inform you that Japan can agree to the US proposal for Article 13(3)(d).

With respect to the exchange of letters regarding the second paragraph of the Protocol, we have given further thought to our proposals in this regard that were presented at the 18th meeting. If the United States cannot accept the elimination of the reference to services US consuls could accord Okinawans in Japan, in the interests of reaching final and full agreement on a Consular Convention we prefer to delete the entire paragraph from the Protocol which we believe the United States proposed sometime ago.

US: Your proposal would be in accord with previous proposals by the United States and we feel we can assure you that it is acceptable to the United States.

Japan: If the Japanese Government is asked in the Diet for an interpretation of Article 2(3), we might reply that Okinawans have a dual character. Although they are nationals of Japan, they are also considered, for the purpose of this Convention, as persons under the protection of the United States when in the United States, its territories or possessions.

US: The US can accept the Japanese proposal for Article 11(6) (formerly 11(5)).

UNCLASSIFIED

0378284103

With the resolution of the question on the second paragraph of the Protocol, it appears to us that there is now full working level agreement. We wish to take this opportunity to thank the Japanese side for its understanding, cooperation and good will which have contributed so much over the past year and a half to bringing these negotiations to the stage that has now been reached.

Japan: We would also wish to thank the American side for its patience, understanding and cooperation and to offer our sincere congratulations over the success of our mutual efforts.

DECLASSIFIED

United States-Japan Consular Convention Negotiations
October 18, 1962 to November 2, 1962

Articles 2(8) and 3(1)

(Eighteenth Meeting)

US: With respect to Article 2(8) which deals with the definition of a consular officer, the US believes that honorary consuls are included in the definition of consular officers and can never be "career consular officers". It therefore considers that the suggested additional language at the end of Article 2(8) would be superfluous.

Japan: We are prepared to agree to the deletion of the additional language at the end of Article 2(8) and also to the deletion of the last sentence of Article 3(1). We believe we can explain to the Diet, if requested, that a consular officer as referred to in Article 2(8) includes an honorary consul.

US: The US view coincides with that interpretation.

Article 5(2)

(Eighteenth Meeting)

US: With respect to Article 5(2), the Department must reluctantly oppose the Japanese proposal to achieve special protection for the consular office. Besides being open to controversy because the term "special protection" is not fully defined, and not really susceptible to advance definition in all cases, the Federal-State system of the United States Government would vitiate its effectiveness. Thus, a municipal level government might be unable effectively to protect the premises, while it would nevertheless undertake, to the best of its ability, the present Article 5(2) duties. Under such a provision the sending state could maintain that it would be necessary at all times to station a policeman at the consulate entrance. It would not seem appropriate to require any municipality to undertake anything approaching such a responsibility. Further,

the premises might merely be leased or rented, and the lessor's interest would thereby benefit to the extent not otherwise available to him as a citizen.

Japan: As you indicated in your explanation, some difficulty might be experienced even with respect to consular officers, and thus it would appear to us that the problem of definition has already arisen.

US: We would simply not want to add to the difficulty of definition by including premises as well as officers for protection purposes.

Japan: If a consular officer were to leave the consular premises vacant, would the consular office be given special protection? For example, if in such an event an anti-Japanese demonstration were to occur would the police protect the premises?

US: It seems to us that several provisions of Article 8 of this Convention plus the laws of the receiving state and international diplomatic and consular practice would all form the basis for according the protection to the premises to which you have just referred.

Japan: Since paragraph 4 of Article 8 provides for the inviolability of consular premises against invasion by authorities of the receiving state and not by private individuals, we are not so confident as you are. However, we do not insist upon our proposal and we withdraw it.

Article 6(1)

(Eighteenth Meeting)

US: With respect to Article 6(1), the Japanese proposal would seem to place a limitation upon the ability to make full and effective use of consular officers and employees. For example, a consular officer with an appointment commission from the sending state and recognition from the receiving state as a consul in one consular district might be precluded from temporarily performing consular functions in another district where a subordinate personnel vacancy may exist. It could be held that no consular officer other than one to be "in charge" could be transferred temporarily to another consular post.

DECLASSIFIED

Japan: We will withdraw our proposal.

Article 8(3)

(Eighteenth Meeting)

US: With respect to Article 8(3), the US agrees to the Japanese proposal.

Article 11(1)(a)

(Eighteenth Meeting)

US: With respect to Article 11(1)(a), the Japanese proposals are acceptable to the US.

Article 11(6)

(Eighteenth Meeting)

US: We, however, can foresee one possible difficulty in the application of this definition to Article 11(6) (formerly Article 11(5)). The receiving state could refuse, pursuant to the proposed revised wording of the second sentence, to accord the privileges of this article to minor children of consular officers and employees if such children worked. What would your intentions be in this respect?

Japan: It would be our intention to require minor children of consular officers and employees to change their immigration status in accordance with the Immigration Control Order and the Alien Registration Law if they desired to work full-time. However, we would not require minor children of a consular officer to make this change in their residence status if they were merely engaged in temporary work. We feel that such minor children should not have the privileges of this article if they are regularly employed. We would therefore require them to request a change in their residence status in accordance with Japanese law.

UNCLASSIFIED

US: Would you be agreeable to reverting to the original language of the second sentence which dealt solely with spouses of consular officers and employees?

Japan: We would prefer not to revert to the previous language but to have the revised language of Article 11(6) in the Convention.

US: We will give you our final position on this question at a later time.

(Nineteenth Meeting)

US: The US can accept the Japanese proposal for Article 11(6) (formerly 11(5)).

Article 13(3)(d)

(Eighteenth Meeting)

US: In Article 13(3)(d), the US would prefer that this subparagraph read as follows: "taxes on the use of amusement facilities, the amusement tax including any hotel and restaurant tax, the spa tax, the traveling tax, taxes on electricity and gas, and the diesel oil delivery tax;".

Japan: We can tentatively agree to your proposal but must consult with officials of the Local Autonomy Ministry before final approval can be given.

(Nineteenth Meeting)

Japan: We have been instructed to inform you that Japan can agree to the US proposal for Article 13(3)(d).

Article 14(2)

(Eighteenth Meeting)

US: With respect to Article 14(2), the Department approves making the definition "members of his family forming part of his household" an appropriately numbered paragraph of the Protocol.

DECLASSIFIED

0317Z2 JUN 70

Article 17(1)(e)

(Eighteenth Meeting)

US: In Article 17(1)(e), the US agrees to the Japanese proposal to substitute the term "depositions" for "evidence". The US would further propose that in order to clarify the meaning of several sentences in the related Agreed Official Minute (now Protocol 6), the following amendment to Article 17(1)(e)(ii) be adopted in lieu of the entire former AOM: "take depositions on behalf of the courts or other judicial tribunals or authorities of the sending state, voluntarily given, or".

Japan: We can accept your proposal.

Article 17(1)(g)

(Eighteenth Meeting)

US: With respect to Article 17(1)(g), the Department believes that it is unnecessary to provide in the Consular Convention for consular officers to issue certificates of origin and other necessary documents for use of the sending state. This is one of the inherent powers exercised by a consul which does not appear to affect the receiving state--hence it is not necessary to establish the power in a convention.

Japan: Japan considers it desirable to have this article in the Convention for the sake of clarification and such an article has already been included in the draft UK/Japan Consular Convention now being negotiated. We would prefer that it be retained.

US: We are authorized to inform you that in view of your firm feelings on the issue, we will accept your proposal.

Second Paragraph of the Protocol

(Eighteenth Meeting)

US: With respect to paragraph 2 of the Protocol, the US agrees to the Japanese wording for this paragraph. However, with respect to the exchange

DECLASSIFIED

of letters, the Department did not contemplate as formal a negotiating record as you are proposing. In fact, the Japanese proposal goes beyond the concept of a negotiating record, being more in the nature of a formal understanding that might be involved in the ratification processes of the two governments. The US considers it unnecessary to give such formality to the confirmation of a right of access to a consul that is clearly inherent in the nature of the several transactions for which right of access is desired and conceded. Inasmuch as a negotiating record is being maintained in the form of minutes covering each negotiating session, the incorporation therein of the substance of the proposed exchange of letters would appear to meet the problem.

Japan: We appreciate the fact that the United States has agreed to the wording proposed by the Japanese side for the second paragraph of the Protocol. However, we have found it necessary to ask you to consider additional proposals for this paragraph and the exchange of letters. With respect to the Protocol itself, we would propose that the words "and ordinary residence" be added after "family registration" in the first instance and that "or ordinary residence" be added after "family registration" in the second instance. Paragraph 2 would then read: "Notwithstanding the provisions of paragraph (3) of Article 2, an individual whose place of family registration and ordinary residence is in the Ryukyu Islands shall, for the purpose of this Convention and for so long as his place of family registration or ordinary residence has not been transferred to Japanese jurisdiction, be considered a national of Japan when in Japan and a person under the protection of the United States when in the United States of America, its territories or possessions." Several government offices concerned have stated that they desire to have the benefits of this paragraph apply to Okinawans who reside in Japan but whose place of family registration continues to be in Okinawa. The additional wording would accomplish this.

US: It would appear from this newly proposed wording that there would now be one or the other of two tests that would be governing in determining whether an Okinawan would be considered a Japanese national when in the United States - the location of his place of family registration or the place where he resides.

Japan: In most cases the place of residence would be controlling. For example, if under our proposal, an Okinawan lived in Japan but his place of family registration were in Okinawa, he would be considered a national of Japan while in the United States. If he were residing in Okinawa, however, and his place of family registration were in Fukuoka, but such registration existed also in Okinawa, he would not be considered a Japanese national while in the United States.

DECLASSIFIED

At this point we would like to draw your attention to the fact that Fukuoka is the only place in Japan where Okinawans are permitted to have their family register recorded in Japan without losing their status of Okinawans. Those Okinawans who wish to select a place in Japan other than Fukuoka as their place of family registration will have to delete their family registration from the registry record in Okinawa first. As the result of such transfer of family registration from Okinawa to Japan they will lose the status of Okinawans.

At present, about one hundred and thirty thousand Okinawans have their family registration in Fukuoka, and some of them actually reside in Japan. Our proposal is intended to treat those Okinawans who reside in Japan as ordinary Japanese.

US: When an Okinawan is in the United States, how can it be determined, as a practical matter, that he is a resident of Japan?

Japan: Prima facie evidence would be his Japanese passport.

US: If (1) his place of family registration and ordinary residence were both in Okinawa, (2) he were issued a Certificate of Identity while in Okinawa, and (3) he came to Japan and he was there issued a Japanese passport, such passport could not be prima facie evidence that he is a resident of Japan. He would still be considered under the protection of the United States while in the United States or its territories or possessions.

Japan: In that event he would probably have to produce other evidence if US officials questioned his status. In any event, these matters could and should be handled on a case by case basis when they arise.

US: It would appear to us that your proposal would in effect permit considerably more Okinawans to be considered Japanese nationals when in the United States than was envisaged in your earlier proposal which was accepted by the United States. This may be considered a substantial departure from the earlier American proposal to which both sides had previously agreed.

Japan: Secondly, we have been instructed to make a further proposal in connection with the exchange of letters which we had earlier proposed with

DECLASSIFIED

DECLASSIFIED

respect to paragraph 2 of the Protocol and which had been rejected by the United States. We would be agreeable to having the substance of these exchange of letters appear in the official minutes of the Convention if the following wording were used:

"U.S.: Upon instruction from the Department, we are now in a position to inform you that the proposal of the Japanese side to modify the wording of the Protocol 2 is acceptable to the United States.

"Japan: Before finally accepting the Protocol 2 proposed by the U.S. side with the amendment as suggested by the Japanese side, the Japanese side wishes to confirm the following understanding.

"It is the understanding of the Japanese side that, as a matter of practice, those Ryukyuans in the United States whose place of family registration (and ordinary residence) are in the Ryukyus have always been permitted free access to Japanese consuls in the U.S. for consultations. Also, Japanese consuls in the U.S. have never been denied the right to perform consular services to such Ryukyuans when such services related to passports or to the execution of documents intended to have legal effect in Japan or to the relief and benefits receivable from Japan. No change in this present practice is intended by virtue of the provisions of the Protocol 2.

"Is this also the understanding of the U.S. side?

"U.S.: Yes, that is also the understanding of the U.S. side."

We were instructed to delete reference to the special services US consuls in Japan could accord Ryukyuans as it was the understanding of the Japanese side that US consuls were not actually according such services to Ryukyuans. If the previous wording in the exchange of letters were allowed to stand, it would mean that US consuls could perform such services as related to passports, et cetera for Ryukyuans in Japan. It is our intention merely to confirm the present practice.

US: We wish to point out first of all that the Department did not reject the proposal for an exchange of letters nor did it object to the general content

DECLASSIFIED

of these letters. It merely stated that it would prefer that the substance of the exchange appear in the official minutes rather than in the form of an exchange of letters because of the probable introduction of the exchange of letters into the ratification process.

Your new proposal appears to be a substantial departure from the content of the exchange of letters that you formerly had proposed. Instructions which have been received by the Embassy make it clear that the United States would desire that the principle of reciprocity be recognized in the Convention with respect to the second paragraph of the Protocol whether or not US consuls in Japan would in fact perform consular services for Ryukyuans. Your present proposal clearly denies this principle of reciprocity and thus, in our view, departs substantially from your previous proposal. From the instructions received from the Department which state that the negotiating record would be expected to show that Japan's acceptance of the proposal for paragraph 2 of the Protocol would not deny to US consular officers in Japan the right to perform comparable services for Ryukyuans, it would appear that there would be serious doubts concerning the acceptability of your proposal by the United States.

Would you be willing to revert to your previous proposal which was not, we repeat, rejected by the United States, and have a formal exchange of letters covering the second paragraph of the Protocol?

Japan: We have been instructed to introduce this new proposal in lieu of the exchange of letters.

US: In view of the absence of the recognition of the principle of reciprocity in your new proposal, we can only repeat that it does not appear that your proposal would be acceptable to the United States in the light of our present instructions.

Japan: We will study further your position on paragraph 2 of the Protocol and the exchange of letters and give you our reply at the next meeting.

(Nineteenth Meeting)

Japan: With respect to the exchange of letters regarding the second paragraph of the Protocol, we have given further thought to our proposals in this regard that were presented at the 18th meeting. If the United States cannot accept the elimination of the reference to services US consuls could accord Okinawans in Japan, in the interests of reaching final and full agreement on a Consular Convention we prefer to delete the entire paragraph from the Protocol which we believe the United States proposed sometime ago.

0370284

US: Your proposal would be in accord with previous proposals by the United States and we feel we can assure you that it is acceptable to the United States.

Japan: If the Japanese Government is asked in the Diet for an interpretation of Article 2(3), we might reply that Okinawan have a dual character. Although they are nationals of Japan, they are also considered, for the purpose of this Convention, as persons under the protection of the United States when in the United States, its territories or possessions.

Fourth Paragraph of the Protocol

(Eighteenth Meeting)

US: With respect to paragraph 4 of the Protocol, the US agrees to the Japanese proposal.

DECLASSIFIED